

Part III - Administrative, Procedural, and Miscellaneous

South Asia Earthquake Occurring on October 8, 2005, Designated as a Qualified Disaster Under § 139 of the Internal Revenue Code

Notice 2005-78

This notice designates the South Asia earthquake occurring on October 8, 2005, as a qualified disaster for purposes of § 139 of the Internal Revenue Code, and describes the affected areas.

SOUTH ASIA EARTHQUAKE

A magnitude 7.6 earthquake struck Pakistan, India, and Afghanistan on October 8, 2005, with resulting aftershocks. The earthquake inflicted enormous damage in South Asia. Published reports currently estimate that in Pakistan and India, more than 54,000 people were killed, over 82,000 were injured, and almost 3 million were displaced from their homes. *USAID Fact Sheet No. 14* (October 24, 2005). This notice provides U.S. tax relief that will facilitate assistance to certain victims of the South Asia earthquake.

QUALIFIED DISASTER RELIEF PAYMENTS EXCLUDED FROM RECIPIENT'S GROSS INCOME

Section 139(a) provides that gross income shall not include any amount received by an individual as a qualified disaster relief payment.

Section 139(b) provides that a qualified disaster relief payment includes any amount paid to or for the benefit of an individual—

(1) to reimburse or pay reasonable and necessary personal, family, living, or funeral expenses (not otherwise compensated for by insurance or otherwise) incurred as a result of a qualified disaster, or

(2) to reimburse or pay reasonable and necessary expenses (not otherwise compensated for by insurance or otherwise) incurred for the repair or rehabilitation of a personal residence or repair or replacement of its contents to the extent that the need for such repair, rehabilitation, or replacement is attributable to a qualified disaster.

Under § 139(c)(3) the term “qualified disaster” includes a disaster resulting from an event that is determined by the Secretary to be of a catastrophic nature.

DESIGNATION AS QUALIFIED DISASTER

The Commissioner of Internal Revenue, pursuant to delegation by the Secretary, has determined that the South Asia earthquake occurring on October 8, 2005, is an event of a catastrophic nature under § 139(c)(3). Therefore, the South Asia earthquake is designated as a qualified disaster under § 139 in the affected areas of these countries: Pakistan, India, and Afghanistan.

SECTION 501(c)(3) ORGANIZATIONS

Because this notice designates the South Asia earthquake as a qualified disaster under § 139, employer-sponsored private foundations may choose to provide disaster relief to employee victims of the earthquake. Like all organizations described in § 501(c)(3), private foundations should exercise due diligence when providing disaster

relief as set forth in Publication 3833, *Disaster Relief: Providing Assistance Through Charitable Organizations*.

DRAFTING INFORMATION

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